

IN THE UNITED STATES DISTRICT COURT

JUL 14 2010

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**BRANDON ORTIZ,**

Defendant.

MATTHEW J. DYKMAN

CLERK

CRIMINAL NO.

10-2081

Counts 1-15: 18 U.S.C. § 1512(b)(3):

Tampering with a Witness by

Misleading Conduct; and 18 U.S.C. §

2 Aiding and Abetting.

INDICTMENT

The Grand Jury charges:

PREAMBLE

During all times relevant to this indictment:

1. The United States Department of Probation and Pretrial Services for the District of New Mexico (hereinafter "Probation") maintained a contract with Relevancy, Inc (Relevancy) under which Relevancy assisted with drug testing and mental health services for Probation. The drug testing services Relevancy provided included urine and Breathalyzer sample collection. Probation was required to drug test all offenders who had been assigned to undergo drug testing at Relevancy as a condition of their supervision. Doctor Robert (Bobby) Sykes was the director of Relevancy.

2. Probation was responsible for monitoring three different classes of persons: a) individuals subject to conditions of pre-trial release in the District of New Mexico; b) individuals on probation in the District of New Mexico; and c) individuals subject to a period of supervised release within the District of New Mexico (collectively "offenders"). As permitted by a court order, the probation officer decided how often offenders were tested each month. Probation was responsible for providing reports to

United States District Court judges as to offenders' compliance with, *inter alia*, drug testing. The reports frequently included results from urinalysis and Breathalyzer tests. The reports were used by judges to determine whether the offenders violated any conditions of their supervision. A violation of their supervision could subject an offender to a period of incarceration.

3. All offenders were assigned a color which designated when they would be randomly tested at Relevancy. Offenders were required to phone in to Relevancy on a daily basis to see what color must report for urinalysis testing the following day. The color was assigned randomly to ensure that offenders did not know prior to calling in when their urinalysis testing would occur. Although the offenders were only notified the day before, Relevancy selected the color approximately 30 days in advance.

4. Once the color for a group of offenders was called, each individual offender within the chosen color group was responsible for reporting to Relevancy on the following day. Once at Relevancy, the offenders were required to enter their signature on the sign-in sheet. The offenders were then individually escorted by a Relevancy technician to the sample collection bathroom. Same-sex technicians were required to remain with offenders during the urine collection process. Additionally, the technician was required to observe the offender produce the urine sample into the cup. Once the urine sample was complete, the cup was sealed and signed by the offender. After the sample was taken, the Relevancy technician filled out a chain-of-custody form which included: a) the offender's name; b) a PACS number (unique number assigned to each offender); c) the offender's Probation officer; and d) the offender's date of birth. Offenders were required to sign the Chain of Custody form confirming that the

specimen provided belonged to the offender and had not been altered. The Relevancy technician also affixed his or her signature to the Chain of Custody form affirming that the technician witnessed the offender provide the specimen. Once the urine specimen was properly collected it was sent by Relevancy to the laboratory at Probation where it underwent urinalysis.

Count 1

5. Paragraphs 1-4 are hereby realleged and incorporated by reference.

6. On or about July 31, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 2

7. Paragraphs 1-4 are hereby realleged and incorporated by reference.

8. On or about September 9, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by

discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

Count 3

9. Paragraphs 1-4 are hereby realleged and incorporated by reference.

10. On or about September 23, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 4

11. Paragraphs 1-4 are hereby realleged and incorporated by reference.

12. On or about October 5, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing did knowingly

engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 5

13. Paragraphs 1-4 are hereby realleged and incorporated by reference.

14. On or about December 21, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 6

15. Paragraphs 1-4 are hereby realleged and incorporated by reference.

16. On or about January 2, 2010, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of

Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

Count 7

17. Paragraphs 1-4 are hereby realleged and incorporated by reference.

18. On or about January 25, 2010, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender One with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 8

19. Paragraphs 1-4 are hereby realleged and incorporated by reference.

20. On or about September 9, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender Two with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender Two's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 9

21. Paragraphs 1-4 are hereby realleged and incorporated by reference.

22. On or about September 25, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender Two with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender Two's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

Count 10

23. Paragraphs 1-4 are hereby realleged and incorporated by reference.

24. On or about December 16, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender Two with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender Two's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.

Count 11

25. Paragraphs 1-4 are hereby realleged and incorporated by reference.

26. On or about December 26, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender Three with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender Three's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 2.



Count 12

27. Paragraphs 1-4 are hereby realleged and incorporated by reference.

28. On or about December 29, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by discarding a collected urine specimen from Offender Three with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by discarding the urine sample, the United States District Court was unable to receive information about Offender Three's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

Count 13

29. Paragraphs 1-4 are hereby realleged and incorporated by reference.

30. Between on or about July 1, 2009 through February 4, 2010, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by allowing Offender One to substitute a urine specimen with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by allowing the use of a

substituted urine sample, the United States District Court was unable to receive information about Offender One's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

Count 14

31. Paragraphs 1-4 are hereby realleged and incorporated by reference.

32. Between on or about July 1, 2009 through February 4, 2010, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by allowing Offender Four to substitute a urine specimen with the intent to prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by allowing the use of a substituted urine sample, the United States District Court was unable to receive information about Offender Four's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

Count 15

33. Paragraphs 1-4 are hereby realleged and incorporated by reference.

34. Between on or about August 1, 2009 through December 31, 2009, in Bernalillo County, in the District of New Mexico, the defendant, **BRANDON ORTIZ**, who was at that time an employee of Relevancy, Inc. responsible for receiving urine samples for drug testing, did knowingly engage in misleading conduct toward Dr. Bobby Sykes and Relevancy, Inc. by allowing Offender Five to substitute a urine specimen with the intent to

prevent the communication to a judge of the United States, of information relating to the possible violation of conditions of supervised release in that, by allowing the use of a substituted urine sample, the United States District Court was unable to receive information about Offender Five's compliance with court-ordered drug testing administered by Relevancy, Inc.

In violation of 18 U.S.C. § 1512(b)(3).

A TRUE BILL:

/s/  
FOREPERSON OF THE GRAND JURY

Assistant United States Attorney

07/14/10 11:22am